

REMARKS/ARGUMENTS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Claims 78-82, 92-110, 117-130, 132-137, 160, and 161 are amended, and Claim 131 is canceled. Claims 59-77, 83-91, 111-116, 138-159, and 162-165 were canceled in previous responses. Applicant respectfully submits that no new matter has been added to the claims, and that the claim amendments do not necessitate a new search by the Examiner. After amending the claims as set forth above, Claims 78-82, 92-110, 117-130, 132-137, 160, and 161 are now pending in this application.

I. Claim Objections

In section 1 of the Office Action, Claim 93 is objected to for using the term ‘data’ instead of the term ‘date.’ Applicant has amended Claim 93 to recite that “the clock in the device outputs the date and the time-of-day information.” (Emphasis added). Accordingly, Applicant respectfully requests withdrawal of the objection.

II. Claim Rejections Under 35 U.S.C. § 103(a)

A. Claims 78-82, 92, 93, 95, 96, 102-104, 106-110, 117-122, 124-131, 133-137, 160, 161

In section 3 of the Office Action, Claims 78-82, 92, 93, 95, 96, 102-104, 106-110, 117-122, 124-131, 133-137, 160, and 161 were rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 5,438,355 to Palmer (hereinafter “Palmer”) in view of United States Patent No. 5,382,970 to Kiefl (hereinafter “Kiefl”) and further in view of United States Patent No. 5,410,326 to Goldstein (hereinafter “Goldstein”). As indicated above, Claim 31 is canceled. Applicant respectfully submits that the rejection is moot in view of the amendments to the pending claims.

Claim 78, as currently amended, recites “storing, in the memory, time-of-day information corresponding to a time at which the request is received, wherein the time-of-day information is provided by the clock.” (Emphasis added). Claims 92 and 117, as currently amended, recite “a controller” configured to “store time-of-day information from the clock in the memory, wherein the time-of-day information corresponds to a time at which a

request for the supplemental information is received” through the user control. (Emphasis added). Applicant respectfully submits that, alone or in combination, Palmer, Kiefl, and Goldstein fail to teach, suggest, or describe such elements.

On page 3 of the Office Action, the Examiner acknowledges that “Palmer fails to disclose ... a clock outputting time-of-day information, wherein the information indicative of the broadcast includes time-of-day information.” Palmer also fails to disclose “storing ... time-of-day information corresponding to a time at which the request is received,” as recited in Claim 78, or a controller configured to store “time-of-day information [which] corresponds to a time at which a request for the supplemental information is received,” as recited in Claims 92 and 117.

Goldstein also fails to teach or suggest such elements. Goldstein is directed toward “a universal programmable remote control device which may be used by a consumer for controlling a variety of consumer products.” (Col. 3, lines 14-17). Goldstein discloses that the remote control includes “various input ports 26, 27 and 28” such that “embedded data in a television broadcast” is transferred “to the remote control device.” (Col. 7, line 67 – col. 8, line 1). The remote control does include “a real time clock 16.” (Col. 7, lines 37-38). However, Goldstein fails to teach, suggest, or describe “storing ... time-of-day information corresponding to a time at which the request is received,” as recited in Claim 78, or a controller configured to store “time-of-day information [which] corresponds to a time at which a request for the supplemental information is received,” as recited in Claims 92 and 117.

Kiefl is directed toward a “system for monitoring and collecting data on the viewing habits of television viewers or radio listeners” (Abstract). Data is collected through “a portable personal data collection device, for use in monitoring audience attention to receivers for receiving broadcast stations” (Col. 2, lines 36-39). Kiefl discloses that the data collection device includes “a clock for providing a signal representing time, a memory for storing data ... and a processor means” (Col. 2, lines 42-46). The processing means is “responsive to said signal representing the time and to said station identifier for storing in

said memory data comprising the time at the beginning and end of receiving signals from said particular one of said broadcast stations” (Col. 2, lines 47-51).

Thus, Kiefl discloses storing a start time and an end time for use in monitoring the viewing/listening habits of a user. Kiefl does not teach or suggest “storing ... time-of-day information corresponding to a time at which the request is received,” as recited in Claim 78. (Emphasis added). Kiefl also fails to teach or suggest a controller configured to store “time-of-day information [which] corresponds to a time at which a request for the supplemental information is received,” as recited in Claims 92 and 117. (Emphasis added). Applicant respectfully submits that storing a start time and an end time to monitor an individual’s viewing/listening habits is not the same as receiving a request for supplemental information or storing time-of-day information corresponding to a time when the request is received.

For at least these reasons, Applicant respectfully submits that the combination of Palmer, Goldstein, and Kiefl fails to teach or suggest each of the elements recited in Claims 78, 92, and 117. Applicant requests withdrawal of the rejection of Claims 78, 92, and 117. For at least the same reasons, Applicant also respectfully requests withdrawal of the rejection of Claims 79-82, which depend from Claim 78, Claims 93, 95, 96, 102-104, and 106-110, which depend from Claim 92, and Claims 118-122, 124-130, 133-137, 160, and 161, which depend from Claim 117.

B. Claims 94, 105, 123, and 132

In section 4 of the Office Action, Claims 94, 105, 123, and 132 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Palmer, Kiefl, and Goldstein, and further in view of United States Patent No. 4,955,070 to Welsh et al. (hereinafter “Welsh”). Applicant respectfully submits that the rejection is moot in view of the claim amendments.

As discussed above, Applicant respectfully submits that the combination of Palmer, Kiefl, and Goldstein fails to teach, suggest, or describe a controller configured to store “time-of-day information [which] corresponds to a time at which a request for the supplemental information is received,” as recited in Claims 92 and 117. Welsh is directed toward “a

method and apparatus for automatic monitoring of broadcast band listening habits using an electronic monitor.” (Col. 1, lines 44-46). The electronic monitor is configured for “electronically tuning a broadcast band tuner ... until a match is found with ... [an] acoustically sensed signal, and recording the time and frequency” of the match for monitoring the user. (Col. 1, lines 49-53). However, Welsh fails to teach or suggest a controller configured to store “time-of-day information [which] corresponds to a time at which a request for the supplemental information is received,” as recited in Claims 92 and 117. (Emphasis added).

For at least these reasons, Applicant respectfully submits that the combination of Palmer, Goldstein, Kiefl, and Welsh fails to teach or suggest each of the elements recited in Claims 92 and 117. Applicant submits that Claims 92 and 117 are in condition for allowance. For at least the same reasons, Applicant also submits that Claims 94 and 105, which depend from Claim 92, and Claims 123 and 132, which depend from Claim 117, are in condition for allowance, and requests withdrawal of the rejection.

C. Claims 97-101

In section 5 of the Office Action, Claims 97-101 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Palmer, Kiefl, and Goldstein, and further in view of United States Patent No. 5,583,763 to Atcheson et al. (hereinafter “Atcheson”). Applicant respectfully traverses the rejection.

As discussed above, Applicant respectfully submits that the combination of Palmer, Kiefl, and Goldstein fails to teach, suggest, or describe a controller configured to store “time-of-day information [which] corresponds to a time at which a user request for the supplemental information is received,” as recited in Claim 92. Atcheson is directed toward “a system for determining selections that a user is likely to be interested in.” (Abstract). Atcheson does not teach or suggest a controller configured to store “time-of-day information [which] corresponds to a time at which a request for the supplemental information is received,” as recited in Claim 92. (Emphasis added).

For at least these reasons, Applicant respectfully submits that the combination of Palmer, Goldstein, Kiefl, and Atcheson fails to teach or suggest each of the elements recited in Claim 92. Applicant submits that Claim 92 is in condition for allowance. For at least the same reasons, Applicant also submits that Claims 97-101, which depend from Claim 92, are in condition for allowance, and requests withdrawal of the rejection.

III. Official Notice

The Examiner has taken official notice with respect to Claims 93, 95, 107, 108, 122, 134, and 135. “Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.” (MPEP § 2144.03(A)). Applicant respectfully submits that this standard has not been met. As such, Applicant traverses the Official Notice.

A. Claims 93 and 122

Claim 93 recites that “the supplemental information is stored as a function of a date,” “the clock in the device outputs the date and the time-of-day information,” and “the date and the time-of-day information are communicated to the database to identify the supplemental information to be communicated to the device.” Claim 122 recites “wherein the controller is further configured to communicate a date to the database along with the time-of-day information.” On pages 9 and 15 of the Office Action, the Examiner “takes official notice that indexing content according to date as well as time of day is notoriously well known in the art, as indexing according to date provides for much larger databases to be used than one in which one the content of a single day is stored.” Applicant respectfully traverses the rejection and the official notice. Applicant submits that storing supplemental information corresponding to a broadcast as a function of the date was not well known in the art in at the time of Applicant’s invention. Applicant respectfully requests that the Examiner provide a reference in support of the rejection.

B. Claim 95

Claim 95, as currently amended, recites that “the memory is removable from the user-operable device for transport to a different location for communicating the time-of-day information to the database.” (Emphasis added). On page 9 of the Office Action, the Examiner “takes official notice that the user of removable memory devices is notoriously well known in the art.” Applicant respectfully traverses the rejection and the official notice. Applicant submits that a removable memory for communicating time-of-day information to a database was not well known in the art in at the time of Applicant’s invention. Applicant respectfully requests that the Examiner provide a reference in support of the rejection.

C. Claims 107 and 134

Claims 107 and 134, as currently amended, require erasing the time-of-day information “in response to a request from the database.” (Emphasis added). On pages 11 and 18, the Examiner “takes official notice that means for erasing stored data from memory is notoriously well known in the art.” Applicant respectfully submits that the official notice is moot in view of the claim amendments. Applicant submits that it was not well known in the art at the time of Applicant’s invention to erase time-of-day information “in response to a request from the database,” as recited in Claims 107 and 134. Applicant respectfully requests that the Examiner provide a reference in support of the rejection.

D. Claims 108 and 135

Claim 108, as currently amended, recites that “the database includes a second clock, and further wherein the controller is configured to correlate the clock in the user-operable device with the second clock.” Claim 135, as currently amended, recites that “the controller is further configured to correlate the clock with a second clock associated with the database.” On page 12 of the Office Action, the Examiner “takes official notice that it is notoriously well known in the art to use master clocks outputting clock signals to coordinate remote clocks.” On page 19 of the Office Action, the Examiner “takes official notice that it is notoriously well known in the art to use master clocks outputting clock signals to coordinate remote clocks in order to synchronize the remote clocks with the master clock.” Applicant traverses the official notice and rejection and submits that, at the time of Applicant’s invention, it was not well known in the art to correlate a clock in a user-operable device with a second clock associated with a

database for providing supplemental information about a broadcast to a user as required by Claims 108 and 135. Applicant respectfully requests that the Examiner provide a reference in support of the rejection.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

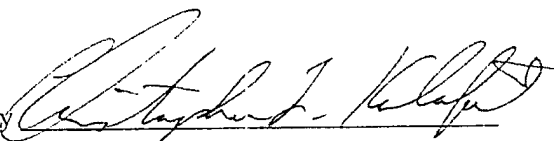
The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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